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13 International, Ltd., sued as Ivy + Blue  
14

10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**  
12

13 WONGAB CORPORATION, a Korean  
14 Corporation,

15 Plaintiff,

16 vs.

17 NORDSTROM, INC. a Washington  
18 corporation, individually and doing  
19 business as "Nordstrom Rack"; IVY +  
20 BLUE, a business of form unknown;  
21 HALOGEN, a business entity of form  
22 unknown; JONATHAN SIMKHAI, INC., a  
23 New York Corporation; LABEL BY 512, a  
24 business entity of form unknown;  
25 INTERZAN, LLC, a New York Limited  
26 Liability Company, individually and doing  
27 business as "Romeo + Juliet"; and DOES 1-  
28 10,

Defendants.

Case No. 17-CV-02974-AB-AGR

**ANSWER OF MAGGY LONDON  
INTERNATIONAL, LTD. TO FIRST  
AMENDED COMPLAINT**

Complaint Filed: April 19, 2017  
Trial Date: None Set

CALL &  
JENSEN  
EST. 1981

1 Defendant Maggy London International, Inc., erroneously sued as Ivy + Blue  
2 (“Defendant”) hereby answers Plaintiff’s unverified First Amended Complaint. In  
3 response to all paragraphs of Plaintiff’s Complaint, Defendant denies each and every  
4 allegation except as expressly admitted herein. Defendant responds specifically to  
5 Plaintiff’s averments as follows:

6  
7 **ANSWER TO INTRODUCTION**

8 In response to the allegations in the introduction, Defendant denies the  
9 allegations of infringement. As to the remaining allegations, Defendant lacks  
10 knowledge or information sufficient to form a belief about the truth of the allegations.

11 **ANSWER TO ALLEGATIONS REGARDING JURISDICTION AND VENUE**

12 1. In response to paragraph 1 of the Complaint, Defendant admits that  
13 Plaintiff alleges claims relating to copyright and patent.

14 2. In response to paragraph 2 of the Complaint, Defendant admits that this  
15 Court has federal question jurisdiction.

16 3. In response to paragraph 3 of the Complaint, Defendant denies the  
17 allegations.

18 **ANSWER TO ALLEGATIONS REGARDING PARTIES**

19 4. In response to paragraph 4 of the Complaint, Defendant lacks knowledge  
20 or information sufficient to form a belief about the truth of the allegations.

21 5. In response to paragraph 5 of the Complaint, Defendant lacks knowledge  
22 or information sufficient to form a belief about the truth of the allegations.

23 6. In response to paragraph 6 of the Complaint, denies the allegations.

24 7. In response to paragraph 7 of the Complaint, Defendant lacks knowledge  
25 or information sufficient to form a belief about the truth of the allegations.

26 8. In response to paragraph 8 of the Complaint, Defendant lacks knowledge  
27 or information sufficient to form a belief about the truth of the allegations.  
28

1           9. In response to paragraph 9 of the Complaint, Defendant lacks knowledge  
2 or information sufficient to form a belief about the truth of the allegations.

3           10. In response to paragraph 10 of the Complaint, Defendant lacks knowledge  
4 or information sufficient to form a belief about the truth of the allegations.

5           11. In response to paragraph 11 of the Complaint, Defendant denies the  
6 allegations.

7                           **ANSWER TO ALLEGATIONS REGARDING**  
8                           **CLAIMS RELATED TO DESIGN PCM-2299 AND D69**

9           12. In response to paragraph 12 of the Complaint, Defendant lacks knowledge  
10 or information sufficient to form a belief about the truth of the allegations.

11           13. In response to paragraph 13 of the Complaint, Defendant lacks knowledge  
12 or information sufficient to form a belief about the truth of the allegations.

13           14. In response to paragraph 14 of the Complaint, Defendant lacks knowledge  
14 or information sufficient to form a belief about the truth of the allegations.

15           15. In response to paragraph 15 of the Complaint, Defendant denies the  
16 allegations against it. As to the allegations against other defendants, Defendant lacks  
17 knowledge or information sufficient to form a belief about the truth of the allegations.

18           16. In response to paragraph 16 of the Complaint, Defendant denies the  
19 allegations against it. As to the allegations against other defendants, Defendant lacks  
20 knowledge or information sufficient to form a belief about the truth of the allegations.

21                           **ANSWER TO ALLEGATIONS REGARDING**  
22                           **CLAIMS RELATED TO U.S. PATENT NO. 8,448,476**

23           17. In response to paragraph 17 of the Complaint, Defendant states that the  
24 patent identified in the Complaint in all respects speaks for itself, and therefore the  
25 allegations require no response.

26           18. In response to paragraph 18 of the Complaint, Defendant lacks knowledge  
27 or information sufficient to form a belief about the truth of the allegations.  
28

1           19. In response to paragraph 19 of the Complaint, Defendant states that the  
2 patent identified in the Complaint in all respects speaks for itself, and therefore the  
3 allegations require no response.

4           20. In response to paragraph 20 of the Complaint, Defendant denies the  
5 allegations against it. As to the allegations against other defendants, Defendant lacks  
6 knowledge or information sufficient to form a belief about the truth of the allegations.

7           21. In response to paragraph 21 of the Complaint, Defendant denies the  
8 allegations against it. As to the allegations against other defendants, Defendant lacks  
9 knowledge or information sufficient to form a belief about the truth of the allegations.

10          22. In response to paragraph 22 of the Complaint, Defendant denies the  
11 allegations against it. As to the allegations against other defendants, Defendant lacks  
12 knowledge or information sufficient to form a belief about the truth of the allegations.

13                           **ANSWER TO FIRST CLAIM FOR RELIEF**

14                                   **(For Copyright Infringement)**

15          23. In response to paragraph 23 of the Complaint, Defendant incorporates the  
16 responses in the preceding paragraphs of this Answer to the same extent paragraph 23  
17 of the Complaint incorporates the allegations contained in the preceding paragraphs in  
18 the Complaint.

19          24. In response to paragraph 24 of the Complaint, Defendant denies the  
20 allegations against it. As to the allegations against other defendants, Defendant lacks  
21 knowledge or information sufficient to form a belief about the truth of the allegations.

22          25. In response to paragraph 25 of the Complaint, Defendant denies the  
23 allegations against it. As to the allegations against other defendants, Defendant lacks  
24 knowledge or information sufficient to form a belief about the truth of the allegations.

25          26. In response to paragraph 26 of the Complaint, Defendant denies the  
26 allegations against it. As to the allegations against other defendants, Defendant lacks  
27 knowledge or information sufficient to form a belief about the truth of the allegations.  
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1           27. In response to paragraph 27 of the Complaint, Defendant denies the  
2 allegations against it. As to the allegations against other defendants, Defendant lacks  
3 knowledge or information sufficient to form a belief about the truth of the allegations.

4           28. In response to paragraph 28 of the Complaint, Defendant denies the  
5 allegations against it. As to the allegations against other defendants, Defendant lacks  
6 knowledge or information sufficient to form a belief about the truth of the allegations.

7           29. In response to paragraph 29 of the Complaint, Defendant denies the  
8 allegations against it. As to the allegations against other defendants, Defendant lacks  
9 knowledge or information sufficient to form a belief about the truth of the allegations.

10          30. In response to paragraph 30 of the Complaint, Defendant denies the  
11 allegations against it. As to the allegations against other defendants, Defendant lacks  
12 knowledge or information sufficient to form a belief about the truth of the allegations.

13                           **ANSWER TO SECOND CLAIM FOR RELIEF**

14                   **(For Vicarious and/or Contributory Copyright Infringement)**

15          31. In response to paragraph 31 of the Complaint, Defendant incorporates the  
16 responses in the preceding paragraphs of this Answer to the same extent paragraph 31  
17 of the Complaint incorporates the allegations contained in the preceding paragraphs in  
18 the Complaint.

19          32. In response to paragraph 32 of the Complaint, Defendant denies the  
20 allegations against it. As to the allegations against other defendants, Defendant lacks  
21 knowledge or information sufficient to form a belief about the truth of the allegations.

22          33. In response to paragraph 33 of the Complaint, Defendant denies the  
23 allegations against it. As to the allegations against other defendants, Defendant lacks  
24 knowledge or information sufficient to form a belief about the truth of the allegations.

25          34. In response to paragraph 34 of the Complaint, Defendant denies the  
26 allegations against it. As to the allegations against other defendants, Defendant lacks  
27 knowledge or information sufficient to form a belief about the truth of the allegations.  
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1           35. In response to paragraph 35 of the Complaint, Defendant denies the  
2 allegations against it. As to the allegations against other defendants, Defendant lacks  
3 knowledge or information sufficient to form a belief about the truth of the allegations.

4           36. In response to paragraph 36 of the Complaint, Defendant denies the  
5 allegations against it. As to the allegations against other defendants, Defendant lacks  
6 knowledge or information sufficient to form a belief about the truth of the allegations.

7                           **ANSWER TO THIRD CLAIM FOR RELIEF**

8                                   **(For Patent Infringement)**

9           37. In response to paragraph 37 of the Complaint, Defendant incorporates the  
10 responses in the preceding paragraphs of this Answer to the same extent paragraph 37  
11 of the Complaint incorporates the allegations contained in the preceding paragraphs in  
12 the Complaint.

13           38. In response to paragraph 38 of the Complaint, Defendant denies the  
14 allegations against it. As to the allegations against other defendants, Defendant lacks  
15 knowledge or information sufficient to form a belief about the truth of the allegations.

16           39. In response to paragraph 39 of the Complaint, Defendant denies the  
17 allegations against it. As to the allegations against other defendants, Defendant lacks  
18 knowledge or information sufficient to form a belief about the truth of the allegations.

19                           **ANSWER TO PRAYER**

20           Defendant denies that Plaintiff is entitled to the relief sought in the Prayer for  
21 Relief and its various subparts.

22                           **AFFIRMATIVE DEFENSES**

23           Without conceding that any of the following necessarily must be pleaded as an  
24 affirmative defense, or that any of the following is not already at issue by virtue of the  
25 foregoing denials, and without prejudice to Defendant's right to plead additional  
26 defenses as discovery into the facts of the matter warrant, Defendant hereby asserts the  
27 following affirmative defenses:  
28

**FIRST AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

1. The Complaint is barred on the grounds that it fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

**(Statute of Limitations)**

2. On information and belief, the Complaint, and each and every claim for relief therein, is barred by the applicable statute of limitations, including Section 507 of the Copyright Act.

**THIRD AFFIRMATIVE DEFENSE**

**(Invalidity of Copyright)**

3. The claims for copyright infringement are barred on the grounds that the copyright is invalid, including because the purported copyright is for a useful object.

**FOURTH AFFIRMATIVE DEFENSE**

**(Unclean Hands)**

4. On information and belief, Plaintiff's claims are barred by the doctrine of unclean hands, including on the grounds that Plaintiff intentionally injected its designs into markets where it allowed them to be copied for the purpose of bringing lawsuits.

**FIFTH AFFIRMATIVE DEFENSE**

**(Release, Waiver, and Estoppel)**

5. Plaintiff's claims are barred by the doctrines of release, waiver, and estoppel for which a reasonable opportunity for investigation or discovery is likely to provide evidentiary support.

**SIXTH AFFIRMATIVE DEFENSE**

**(Acquiescence)**

6. Plaintiff's claims are barred by the doctrine of acquiescence in that Plaintiff acquiesced to the alleged infringements, upon information and belief, based in part upon Plaintiff's conduct of waiting before filing its claim.



1 **SEVENTH AFFIRMATIVE DEFENSE**

2 **(Failure to Mitigate Damages)**

3 7. Plaintiff's claims are barred by its failure to mitigate damages, including as  
4 a result of its alleged injection of its works into markets where it allowed them to be  
5 copied for the purpose of bringing lawsuits. Consequently, any damages awarded to  
6 Plaintiff should be barred or reduced accordingly.

7 **EIGHTH AFFIRMATIVE DEFENSE**

8 **(No Registration)**

9 8. Plaintiff's claims for statutory damages and attorney's fees under the  
10 Copyright Act are barred on the grounds that Plaintiff failed to register the works in the  
11 United States.

12 **NINTH AFFIRMATIVE DEFENSE**

13 **(Misuse of Copyright)**

14 9. On information and belief, Plaintiff's claims are barred because of its anti-  
15 competitive intent and conduct, its misuse of its purported copyrights and its abuse of  
16 the judicial process for which a reasonable opportunity for investigation or discovery is  
17 likely to provide evidentiary support. On information and belief, Defendant alleges  
18 that, among other things, Plaintiff intentionally injected its design into the market under  
19 circumstances that it knew would lead to copying, took no precautions to protect against  
20 copying, allowed them to be copied, and then sought out similar designs for the express  
21 purpose of filing lawsuits. By filing copyright lawsuits and demanding disgorgement of  
22 profits from each entity in the distribution chain, Plaintiff seeks to use the Copyright  
23 law to obtain windfalls far greater than Plaintiff could have obtained had it properly  
24 exploited its copyrights.

25 **TENTH AFFIRMATIVE DEFENSE**

26 **(Scene a Faire and/or Merger)**

27 10. Defendant asserts that Plaintiff's claims are barred or limited by the *scenes*  
28 *a faire* and/or merger doctrine in that, among other things, Plaintiff's alleged



1 copyrighted design is ordinary, commonplace, or standard in the relevant art or  
2 industry.

3 **ELEVENTH AFFIRMATIVE DEFENSE**

4 **(Profits Limited by Apportionment)**

5 11. To the extent Defendant earned any profits that are attributable to the  
6 alleged infringement of Plaintiff's rights (which Defendant denies), those profits are  
7 attributable to factors other than the infringement.

8 **TWELFTH AFFIRMATIVE DEFENSE**

9 **(Independent Creation)**

10 12. On information and belief, the work that is alleged to infringe Plaintiff's  
11 copyright was independently created.

12 **THIRTEENTH AFFIRMATIVE DEFENSE**

13 **(Invalidity of Patent)**

14 13. On information and belief, Plaintiff's claim for patent infringement is  
15 barred on the grounds that the patent is not valid.

16  
17 Defendant reserves the right to allege additional affirmative defenses as they may  
18 become known, or as they evolve during the litigation, and to amend this Answer  
19 accordingly.

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**PRAYER FOR RELIEF**

Wherefore, Defendant prays for judgment as follows:

1. That Plaintiff take nothing by reason of its Complaint in this matter and that judgment be rendered in favor of Defendant;
2. That Defendant be awarded its costs of suit in this matter, including reasonable attorneys' fees; and
3. For such other and further relief as the Court deems just and proper.

Dated: August 18, 2017

CALL & JENSEN  
A Professional Corporation  
Scott P. Shaw  
Samuel G. Brooks

By: /s/ Samuel G. Brooks  
Samuel G. Brooks

Attorneys for Defendant Maggy London  
International, Ltd., sued as Ivy + Blue

**DEMAND FOR JURY TRIAL**

Defendant hereby demands a jury trial on all issues so triable.

Dated: August 18, 2017

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A Professional Corporation  
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By: /s/ Samuel G. Brooks  
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